

Senate Bill 19

By: Senators Johnson of the 1st, Balfour of the 9th, Wiles of the 37th, Hill of the 32nd, Williams of the 19th and others

AS PASSED

AN ACT

To amend Code Section 9-11-23 of the Official Code of Georgia Annotated, relating to class actions, so as to provide for procedures, conditions, and limitations on certification of class actions; to provide for appellate procedures relating to class actions certification; to provide for related matters; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 9-11-23 of the Official Code of Georgia Annotated, relating to class actions, is amended by striking subsection (f), and inserting in lieu thereof the following:

(f)

(1) After the commencement of an action in which claims or defenses are purported to be asserted on behalf of or against a class, the court shall hold a conference among all named parties to the action for the purpose of establishing a schedule for any discovery germane to the issue of whether the requested class should or should not be certified. At this conference, the court shall set a date for a hearing on the issue of class certification. Except for good cause shown, such hearing may not be set sooner than 90 days nor later than 180 days after the date on which the court issues its scheduling order pursuant to the conference. If evidence is presented by affidavit, the parties shall have an opportunity to cross-examine affiants as to such testimony offered by affidavit.

(2) Except for good cause shown, the court shall stay all discovery directed solely to the merits of the claims or defenses in the action until the court has issued its written decision regarding certification of the class.

(3) When deciding whether a requested class is to be certified, the court shall enter a written order addressing whether the factors required by this Code section for certification of a class have been met and specifying the findings of fact and conclusions of law on which the court has based its decision with regard to whether each such factor

has been established. In so doing, the court may treat a factor as having been established if all parties to the action have so stipulated on the record.

(4) Nothing in this Code section shall affect, or be construed to affect, any provision of Code Section 9-11-12 or Code Section 9-11-56.

(g) A court's order certifying a class or refusing to certify a class shall be appealable in the same manner as a final order to the appellate court which would otherwise have jurisdiction over the appeal from a final order in the action. The appellate courts shall expedite resolution of any appeals taken under this Code section. Such appeal may only be filed within 30 days of the order certifying or refusing to certify the class. During the pendency of any such appeal, the action in the trial court shall be stayed in all respects.

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall apply to all cases pending on that effective date in which the trial court has not yet certified the case as a class action and to all cases filed on or after that effective date.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.